IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRA/119/2005

RAJENDRA BHAURAOJI VITALKAR ... Petitioner
vs.
THE STATE OF MAHARASHTRA & ORS. ... Respondent

Mr. N. B. Shah with Mr. Piyush Shah for petitioner .
Mr. R. S. Khadapkar AGP for respondent nos.1 & 2.
Mr. Vinay Bhate i/b. M/s. Little &Co., for respondent no.3.

CORAM: D. G. KARNIK **J.**

DATE: 18th October 2006

P.C.:

1. Heard learned counsel for the parties.

2. This civil revision application is directed against the order dated 10th March 2004 passed by the Sub Divisional Officer (for short ' SDO' ,)Maval Division, rejecting the petitioner' s application for making a reference under section 34 of the Maharashtra Industrial Development Act, 1961(for short 'the MID Act' .)

3. The land of the petitioner was acquired for the purpose of Maharashtra Industrial Development Corporation, the respondent no.3 herein. A notice of the award was served on

the respondent on 22nd December 2004. On 20th February 2004 the petitioner made an application under section 34 of the MID Act requesting the SDO to make a reference to the District Court. By an order dated 10th March 2004 the application was rejected on the sole ground that the necessary court fee on the amount of enhancement of the compensation claimed was not paid and that time for payment of court fee could not be extended beyond the period of 60 days, within which an application for reference is required to be made under the MID Act.

4. In Kashi Ram Namdeo Zambro vs. State of Maharashtra, reported in (1996) 1 SCC 289 the Supreme Court has laid down that an application under section 18 of the Land Acquisition Act , requesting the Collector to make a reference can be made without payment of court fee. Payment of the court fee along with such an application for reference is not necessary. In my view, on parity of reasoning it is not necessary to pay court fee along with an application for reference under section 34 of the MID Act. Therefore the SDO was wrong in rejecting the application for reference only on the ground that court fee was not paid along with the application.

5. In view of this the revision application is allowed. The impugned order is set aside and respondent nos. 1and 2 are

directed to make a reference to the District Court in accordance with law.

(D.G. KARNIK J.)